

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF IOWA**

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In re:

MERCY HOSPITAL, IOWA CITY, IOWA, *et al.*,

Debtors.

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)  
) Chapter 11  
)  
) Case No. 23-00623 (TJC)  
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) Jointly Administered  
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**RESPONSE TO MERCY HEALTH NETWORK, INC.’S EXPEDITED MOTION TO  
EXTEND DEADLINE TO PRODUCE RESPONSIVE DOCUMENTS AND  
COMMUNICATIONS TO THE OC**

COMES NOW, Mercy Hospital Liquidation Trust Oversight Committee as designee of the Liquidation Trustee (the “OC”) and hereby responds to *Mercy Health Network, Inc.’s Expedited Motion to Extend Deadline to Produce Responsive Documents and Communications to the OC* [Docket No. 1894] (the “MercyOne Extension Motion”) and states as follows:

1. It is unfortunate that the issues raised in the MercyOne Extension Motion are not capable of resolution between counsel without this Court’s involvement.
2. Over the course of this week, counsel for the OC on multiple occasions and via multiple modes of communication has indicated the OC’s willingness to grant an extension of the deadline (currently May 12, 2025) to MercyOne to respond to the subpoenas authorized by this Court and issued by the OC pursuant to Rule 45 of the Federal Rules of Civil Procedure (the “Document Subpoena”). The OC has communicated its willingness to extend the deadline for MercyOne to complete its response to the Document Subpoena until May 19, 2025 provided that

MercyOne commit to making a material and quantifiable rolling production of documents in the coming days and in advance of any extended deadline.<sup>1</sup>

3. MercyOne, to date, has not done so. The OC is concerned that this extension is the “tip of the iceberg,” that MercyOne is not prepared to timely comply with the Document Subpoena even if an extension is granted, and that multiple more extension requests are forthcoming. There is a short turnaround between receipt of what the OC expects to be tens or hundreds of thousands of documents and next month’s scheduled depositions. Additional delays would be highly prejudicial to the OC.

4. To date, MercyOne has been unable to give an indication of (i) the universe of total documents and communications it expects to produce in response to the Document Subpoena or (ii) a rough number of documents it can produce on a rolling basis prior to any extended deadline. To date, MercyOne has only made one production of non-ESI documents to the OC despite an obligation in the parties’ agreed Bankruptcy Rule 2004 order to make rolling productions.

5. The OC is prepared to agree on the record at today’s telephonic hearing to an extension to May 19, 2025 if counsel for MercyOne is able to provide a commitment for MercyOne to produce a material and quantifiable number of responsive documents and communications on a rolling basis next week in advance of May 19<sup>th</sup> and provide with an estimate of the total volume to be produced so we can ensure our team is sufficiently staffed to review the anticipated volume of documents in advance of the scheduled depositions in June. To date, MercyOne has not shared whether it anticipates producing a total of 10,000 documents or 100,000 documents. The OC doesn’t need an exact number, but it has asked for an estimate in order to make an informed

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<sup>11</sup> This has consistently been the OC’s approach in communicating its willingness to agree to the May 19 extended deadline. MercyOne’s accusations that the OC has changed its approach or changed conditions is unfounded and is unproductive to trying to resolve the issues before the parties.

decision about agreeing to MercyOne's proposed extension requests and ensure the OC is not unduly prejudiced.

6. The OC is hopeful this issue can be expeditiously resolved at today's hearing following MercyOne providing this information and related assurances.

*[Remainder of the Page Intentionally Left Blank]*

Dated: May 9, 2025 NYEMASTER GOODE, P.C.

/s/ Roy Leaf

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*Counsel for the Mercy Hospital Liquidation Trust  
Oversight Committee as Designee of the Liquidation  
Trustee*

### **Certificate of Service**

The undersigned certifies, under penalty of perjury, that on this May 9, 2025, the foregoing document was electronically filed with the Clerk of Court using the Northern District of Iowa CM/ECF and the document was served electronically through the CM/ECF system to the parties of this case

/s/ Roy Leaf